289, 292. And mental suffering caused by wilful violation of the right may be compensated in damages. *Finley v. Atlantic Transportation Transport Co.* (1917) 220 N. Y. 249, 115 N. E. 715, commented on (1917) 26 YALE LAW JOURNAL, 790; *Larson v. Chase* (1891) 47 Minn. 307, 50 N. W. 238. Many states admit such recovery, although the violation of the right is merely negligent. *Wright v. Beardsley* (1907) 46 Wash. 16, 89 Pac. 172 (negligent burial); *Renihan v. Wright* (1890) 125 Ind. 536, 25 N. E. 822; *Kyles v. Southern R. Co.* (1908) 147 N. C. 394; 61 S. E. 278; *contra, Long v. Chicago, etc. R. Co., supra; Awtrey v. Norfolk, etc. R. Co.* (1917) 121 Va. 284, 93 S. E. 570, commented on (1918) 27 YALE LAW JOURNAL, 416 (omission to notify before burial; distinguishable because of the bailment in the principal case). The principal case presents, apparently for the first time, the question of whether the rule should be extended to cover the case of ashes after cremation. It has been argued that in the case of the body recovery is wholly anomalous, since the plaintiff would have no recovery for his mental anguish if the injury had been inflicted on the body of another which was alive, not dead. But this contention applies with equal force to, and is refuted by the cases involving wantonness, and can hardly be invoked to deny extension of the rule to ashes. It is believed that the same rules should apply throughout to the ashes as to the body. The interest to be protected is the next of kin's satisfaction in fitting disposal of the remains, which is equally strong in the two cases. It has, however, been argued, as in the principal case, that mental suffering produced by negligence will never be compensated unless it accompanies actionable physical damage to the plaintiff. *Awtrey v. Norfolk, etc. R. Co., supra.* This argument in such cases as the present seems to rest on a confusion. In the case of the living, the interest in peace of mind and that in peace of body are intimately connected in fact; normally the one is not violated save in conjunction with the other. But the interest in a dead body has none of the elements of physical enjoyment. A "physical invasion" of that interest is unthinkable. *Cf.* (1918) 28 YALE LAW JOURNAL, 171. Mutilation, desecration, improper burial, and loss, all have from this angle one and the same effect: to lacerate the feelings of the living. It may be that that protection should not be accorded against mere negligent violation; but that question should be settled on its own merits: to require accompanying "physical injury" is to require the factually and logically impossible. The same would seem to hold true of ashes. That the change in physical and chemical form has produced a thing capable of true ownership ought not, it is believed, to alter the nature of the protection accorded the only serious interest involved, any more than does the possibility that a corpse might by lawful appropriation to scientific purposes become property. *Cf. Long v. Chicago, etc. R., supra.* The principal case, though attempting to distinguish *Wright v. Beardsley, supra,* has in effect overruled that case, and, it is believed, on insufficient grounds.

WORKMEN'S COMPENSATION—ILLEGAL EMPLOYMENT OF MINOR—COMPENSATION ACT NOT APPLICABLE.—In violation of a state law defendants employed in their store a girl under fourteen. They in good faith believed her to be over that age, as she so represented and also produced a "permit" from a government official. She was killed because of defendant's negligence. In an action brought to recover damages to her estate the defendants claimed that as both they and the deceased had accepted the Workmen's Compensation Act, recovery could be had only under its provisions. *Held,* that her estate was entitled to recover on the statutory liability for negligently causing death. *Sechlich v. Harris-Emery Co.* (1918, Iowa) 169 N. W. 325. In a similar action in New York the same result was reached. *Wolff v. Fulton Bag & Cotton Mills* (1918, App Div.) 173 N. Y. Supp. 75.

The court held that the employment of the deceased was unlawful, even though defendants in good faith believed her to be over fourteen. The agreement on her part to accept the terms of the Compensation Act was therefore not legally effective. Many of the earlier cases in other jurisdictions, cited in the opinion, did not involve the element of misrepresentation by the employee and consequent good faith on the part of the employer. If we accept the court's interpretation of the law forbidding child labor—an interpretation which is in accord with the great weight of authority—the conclusion reached in the principal case logically follows. But where the minor is lawfully employed to do certain kinds of work and is given a prohibited kind to do, it has been held that since the original contract of employment was lawful, recovery can be had only under the Compensation Act. *Foth v. Macomber & Whyte Rope Co.* (1915) 161 Wis. 549, 154 N. W. 369. *Contra: Lostutter v. Brown Shoe Co.* (1916) 203 Ill. App. 517. The question may be raised whether, even if the minor is entitled to damages because his agreement is not binding on him, he may not, if he prefers, hold the employer to the latter's agreement to accept the terms of the Compensation Act. In the law of contracts it is held that an adult cannot set up the infancy of the plaintiff as a defense to an action at law for damages, so long as the infant has not disaffirmed. *Harris v. Musgrove* (1883) 59 Tex. 401. Because of the lack of mutuality, however, the infant while still under age cannot have specific performance. *Flight v. Bolland* (1828, Eng. Ch.) 4 Russ. 298. Nevertheless, in the only case which has been found deciding the point it was held, simply on the authority of the cases permitting the infant to treat his agreement as a nullity, that he could not elect to take compensation instead of damages. Apparently the court took the view that he was not an "employee" within the meaning of the Compensation Act. *Messmer v. Industrial Board* (1918, Ill.) 118 N. E. 993.